

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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TREVOR BURNS,

Plaintiff,

-v.-

Civil Action No.  
9:05-cv-1204 (GLS/GHL)

SGT. W. TROMBLY, Correctional  
Officer; Upstate C.F.; S. BROWN,  
Correctional Officer, Upstate C.F.;  
T. QUINN, Correctional Officer,  
Upstate C.F.; M. LAVIGNE, Correctional  
Officer, Upstate C.F.; J. COLBY, Correctional  
Officer, Upstate C.F.; C. CROSSMAN,  
Correctional Officer, Upstate C.F.; SGT. JOHN  
DOE I, Correctional Officer, Upstate C.F.; SGT.  
JOHN DOE II, Correctional Officer, Upstate C.F.;  
LT. JOHN DOE I, Correctional Officer, Upstate  
C.F.; LT JOHN DOE II, Correctional Officer,  
Upstate C.F.; J. MCGRAW, Correctional Officer,  
Upstate C.F.; E. RUSSELL, Correctional Officer,  
Upstate C.F.; B. CLARK, Correctional Officer,  
Upstate C.F.; G. WATERSON, Registered Nurse,  
Upstate C.F.; J. CHESEBORO, Registered Nurse,  
Upstate C.F.; CAPTAIN D. UHLER, Correctional  
Officer, Upstate C.F.; DONALD WOOD, Correctional  
Officer, Upstate C.F.; and ROBERT K. WOODS,  
Superintendent, Upstate C.F.,

Defendants.

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APPEARANCES:

OF COUNSEL:

**FOR THE PLAINTIFF:**

TREVOR BURNS  
97-a-6087  
Plaintiff Pro Se  
Attica Correctional Facility

Box 149  
Attica, New York 14011

**FOR THE DEFENDANTS:**

HON. ANDREW M. CUOMO  
Attorney General for the State of New York  
Counsel for Defendants  
The Capitol  
Albany, New York 12224

MARIA MORAN  
Assistant Attorney General

GARY L. SHARPE,  
U.S. DISTRICT JUDGE

**ORDER**

The above-captioned matter comes to this court following a Report-Recommendation by Magistrate Judge George H. Lowe, duly filed March 21, 2008. Following ten days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties herein.

No objections having been filed, and the court having reviewed the Magistrate Judge's Report-Recommendation for clear error, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge George H. Lowe filed March 21, 2008 is ACCEPTED in its entirety for the reasons state therein, and it is further

ORDERED, that Defendants' motion for partial summary judgment

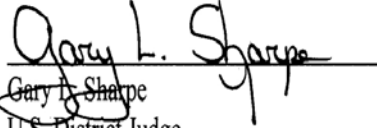
(Dkt. No. 58) is **GRANTED**, and that Plaintiff's claims against the four "John Doe" defendants are dismissed without prejudice, and it is further

ORDERED, that Plaintiff's official-capacity claims, and his Fourteenth Amendment claims, against the remaining defendants are dismissed with prejudice, and it is further

ORDERED, that Plaintiff's Eighth Amendment claims against Defendants Quinn, Clark, Uhler and Robert Woods in their individual capacities are dismissed with prejudice.

IT IS SO ORDERED

Dated: May 7, 2008  
Albany, New York

  
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Gary L. Sharpe  
U.S. District Judge